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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 3242.01US02

William J. Gibson

Confirmation No.: 1145

Application No.: 10/673,641

Examiner: Melody M. Burch

Filed: September 26, 2003

Group Art Unit: 3683

For: S CAM BUSHING ASSEMBLY

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Reply Brief is presented in response to the Examiner's Answer of August 8, 2007
and further to the Appellant's Appeal Brief of April 23, 2007.

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF MAILING

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Erik M. Drange

I. STATUS OF CLAIMS.

Claims 1, 4, 6-15, 18-28, 31, and 33-45 stand rejected, remain pending, and are the subject of the present Appeal.

Claims 2-3, 5, 16-17, 29-30, and 32 have been cancelled.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.

A. Whether claims 1, 4, 6, 11, 13, 15, 18, 19, 24, 28, 31, 38, and 43-45 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 3,497,037 to Deibel ("Deibel").

B. Whether claims 1, 4, 6, 7, 15, 18-20, 28, 31, 33, 34, 39, 41, and 43-45 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,240,806 to Morris et al. ("Morris") in view of U.S. Patent No. 2,382,554 to Eksbergian et al. ("Eksbergian").

C. Whether claims 12, 14, 25-27, 40, and 42 are unpatentable under 35 U.S.C. §103(a) over Deibel in view of U.S. Patent No. 4,346,535 to Asano et al. ("Asano").

D. Whether claims 12, 14, 25-27, 40, and 42 are unpatentable under 35 U.S.C. §103(a) over Morris in view of Eksbergian and Asano.

E. Whether claims 8-10, 21-23, and 35-37 are unpatentable under 35 U.S.C. §103(a) over Morris in view of Eksbergian and further in view of U.S. Patent No. 6,450,073 to Boyer et al. ("Boyer").

III. ARGUMENT.

A. REJECTION UNDER 35 U.S.C. § 103(a) OVER DEIBEL.

The Examiner's Answer mailed August 8, 2007 ("Answer") highlights the Examiner's failure to establish a prima facie case of obviousness, specifically, the Examiner's failure to provide a reference or references teaching or suggesting all features of the claims.

In the section of the Answer relating to the rejection under 35 U.S.C. § 103(a) over Deibel, the Examiner asserts that Deibel teaches "a single bushing 145 rotationally supporting the s cam." While the Examiner recognizes that Deibel does not teach an elongate bushing, she asserts "that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have increased the length of the single bushing of Deibel." In doing so, however, the Examiner fails to address or even mention multiple explicit features of the claims, including: (1) a single elongate bushing "substantially coextensive along the length of the S cam shank" and (2) a single elongate bushing "extending from proximate the S-head to proximate the splines." The Examiner merely asserts that the Deibel bearing could be lengthened, but not to what extent.

The Examiner then attempts to deal with the features not taught or suggested by Deibel in a subsequent section of the Answer asserting that, merely by elongating the bearing of Deibel, the bearing would be substantially coextensive along the length of the S cam shank and extend from proximate the S-head to proximate the splines. This unsupported statement does not satisfy the Examiner's burden. Merely elongating the Deibel bearing would not automatically create a bushing substantially coextensive along the length of the S cam shank and extending from proximate the S-head to proximate the splines, as required by the claims. Thus, these explicit features of the claims remain absent in the cited art. There is no teaching, suggestion, motivation, or other reason as to why one skilled in the art would modify Deibel by lengthening the bearing to the claimed configuration.

Thus, because all features of the claims are not taught or suggested by the cited reference and because the Examiner fails to provide any reason as to why the reference would be modified to include all features of the claims, a prima facie case of obviousness has not been established. Appellant respectfully requests reversal of the rejection of claims 1, 4, 6, 11, 13, 15, 18-19, 24, 28, 31, 38, and 43-45 over Deibel, for the reasons presented herein and in the Appeal Brief of April 23, 2007 ("Appeal Brief").

B. REJECTION UNDER 35 U.S.C. § 103(a) OVER MORRIS AND EKSERGIAN.

As with the rejection under 35 U.S.C. § 103(a) over Deibel, the Answer highlights the Examiner's failure to establish a prima facie case of obviousness, as Morris and Eksbergian, individually or in combination, do not teach or suggest all features of independent claims 1, 15, and 28 or the claims dependent thereon. Importantly, the Answer is completely silent as to the explicit features of the claims that (1) the single elongate bushing is "substantially coextensive along the length of the S cam shank" and (2) the single elongate bushing "extending from proximate the S-head to proximate the splines."

Appellant respectfully requests reversal of the rejection of claims 1, 4, 6, 7, 15, 18-20, 28, 31, 33, 34, 39, 41, and 43-45 over Morris and Eksbergian, for the reasons presented herein and in the Appeal Brief.

C. REJECTION UNDER 35 U.S.C. § 103(a) OVER DEIBEL AND ASANO.

Appellant maintains the argument presented in the Appeal Brief and respectfully requests reversal of the rejection of claims 12, 14, 25-27, 40, and 42 over Deibel and Asano.

D. REJECTION UNDER 35 U.S.C. § 103(a) OVER MORRIS, EKSERGIAN, AND ASANO.

Appellant maintains the argument presented in the Appeal Brief and requests reversal of the rejection of claims 12, 14, 25-27, 40, and 42 over Morris, Eksergian, and Asano.

E. REJECTION UNDER 35 U.S.C. § 103(a) OVER MORRIS, EKSERGIAN, AND BOYER.

Appellant maintains the argument presented in the Appeal Brief and requests reversal of the rejection of claims 8-10, 21-23, and 35-37 over Morris, Eksergian, and Boyer.

IV. CONCLUSION.

The Examiner has failed to establish prima facie unpatentability of any of the pending claims. Thus, Appellant respectfully requests the reversal of the rejections of claims 1, 4, 6-15, 18-28, 31, and 33-45 and the allowance of all pending claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Erik M. Drange", with a long horizontal flourish extending to the right.

Erik M. Drange
Registration No. 57,750

Customer No. 24113
Patterson, Thunte, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 252-1538